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OFFICE OF PETITIONS

In re Application of :
Charles H. Culp, et. al. :
Application No. 10/004,988 :
Filed: December 3, 2001 :
Attorney Docket No. 017575.0490 (TAMUS 1549) :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on October 4, 2005, to revive the above-identified application.

The application became abandoned for failure to timely reply to the final Office action mailed February 4, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, with the \$395 filing fee; (2) the petition fee of \$750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office also acknowledges receipt of an amendment and \$285 for a three (3) month extension of time filed on October 4, 2005. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$285 extension of time was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

This application is being revived for consideration of the RCE filed November 28, 2005.

The application file is being referred to Technology Center Art Unit 2167.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith

Petitions Examiner
Office of Petitions